

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

STANLEY L. WADE,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM DECISION AND
ORDER DENYING PETITIONER'S
MOTION FOR DEFAULT
JUDGMENT

Civil Case No. 2:08-CV-741 TS
Criminal Case No. 2:04-CV-141 TS

This matter comes before the Court on Petitioner's Motion for Default Judgment

Pursuant to Fed.R.Civ.P. 55. For the reasons discussed below, the Court will deny the Motion.

Petitioner filed his Motion pursuant to 28 U.S.C. § 2255 on September 26, 2008. The Court, on September 30, 2008, ordered the government to respond to Petitioner's Motion within 60 days of that Order. The government filed its response with the Court on November 19, 2008, within the 60-day period set by the Court. That response indicates that it was mailed to Petitioner.

Petitioner has now filed the instant Motion stating that he has not received the government's response and seeks entry of default judgment. The government opposes

Petitioner's Motion, arguing that it has responded to Petitioner's § 2255 Motion and mailed that response to Petitioner.

As the government has responded to Petitioner's Motion within the time limits set by the Court, default judgment is inappropriate. In order to ensure that Petitioner receive a copy of the government's response, the Court will order the Clerk of the Court to mail a copy of the government's response to Petitioner.¹ In addition, the Court will extend the time in which Petitioner may file a reply brief. Petitioner shall have thirty (30) days from the date of this Order to file a reply brief.

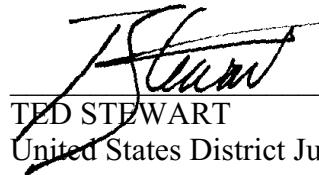
It is therefore

ORDERED that Petitioner's Motion for Default Judgment Pursuant to Fed.R.Civ.P. 55 (Docket No. 7) is DENIED. It is further

ORDERED that the Clerk of the Court mail to Petitioner the government's response to his § 2255 Motion (Docket No. 6). Petitioner shall have thirty (30) days from this Order to file a reply.

DATED December 15, 2008.

BY THE COURT:



TED STEWART
United States District Judge

¹The government indicates that it too will send an additional copy of its response to Petitioner.